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Committee on the Rights of the Child
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Summary record of the 2142nd meeting
Held at the Palais Wilson, Geneva, on Monday, 19 September 2016, at 3 p.m.

Chair: Ms. Muhamad Shariff (Vice-Chair)

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Second periodic report of South Africa (continued) (CRC/C/ZAF/2, CRC/C/ZAF/Q/2 and Add.1)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*

2. **Ms. Bogopane-Zulu** (South Africa) said that her Government did consult adolescents on programmes designed for them and that it also funded a number of NGOs that conducted programmes for adolescents. Some of the programmes that received funding were actually designed and carried out by the young people themselves.

3. The amount of funding allocated to different schools was determined by the students' socioeconomic status, with a significant portion of the budget being spent on poor schools. Certain schools had been declared "no-fee schools", and her Government also provided free uniforms and free meals to poor students. She noted the Committee's concern about dropouts and said that her delegation would provide statistical data on that subject in writing. Community colleges and technical and vocational colleges had been established for young people who wished to learn practical skills rather than pursuing an academic education.

4. The budget for teacher training had increased, and many teachers who had been educated through the Bantu education system had been retrained. Children underwent a health assessment prior to circumcision to ensure that they were fit for the procedure. NGOs conducted rehabilitation and support programmes for children who had been circumcised.

5. **Mr. Cardona Llorens** (Country Task Force) reminded the delegation that a number of the questions he had asked at the previous meeting had yet to be answered.

6. **Ms. Oviedo Fierro** (Coordinator, Country Task Force) asked about the situation of child victims of witchcraft and about forced evictions.

7. **Ms. Kambula** (South Africa) said that the minimum age of criminal responsibility was currently 10 years. The piece of legislation containing that provision had recently been reviewed, and following that review it had been proposed that the minimum age should be increased to 12 years. The proposal had been approved by Cabinet and was currently before Parliament. A public consultation on the subject was under way, and the possibility of increasing the minimum age to 15 years, in accordance with African Union standards, was also being considered.

8. **Ms. Bogopane-Zulu** (South Africa) said that the commissioners of the South African Human Rights Commission were appointed to a five-year term and were assigned specific responsibilities, such as responsibility for issues concerning disability and children's rights. Their performance was monitored and evaluated.

9. **Ms. Sandberg** asked whether the Government had considered establishing children's issues as a standing mandate for the Human Rights Commission. Given the large number of children in the State party, perhaps children's issues could even be the sole responsibility assigned to one of the commissioners.

10. **Mr. Cardona Llorens** asked whether resources were specifically earmarked for work on children's issues within the Commission.

11. **Ms. Bogopane-Zulu** (South Africa) said that the mandate for children's issues was assigned to a specific commissioner each time new members of the Commission were

appointed. The budget allocations for disability issues and children's issues were higher than for other areas of focus, and the commissioners assigned to those mandates received additional support. In addition to the Human Rights Commission, all other Chapter nine institutions also included a section devoted to children's issues. For example, one of the focus areas for the Commission for Gender Equality was the situation of girls.

12. **Ms. Ayoubi Idrissi** asked how coordination among those different Chapter nine institutions was organized and what impact they had on national policies concerning the rights of the child.

13. **Ms. Bogopane-Zulu** (South Africa) said that the Chapter nine institutions were constitutional bodies and that they reported directly to Parliament. The Portfolio Committee on Social Development met quarterly with the relevant mechanisms within the Chapter nine institutions to consider the situation of specific groups, including children. The Department of Social Development appeared before Parliament to answer questions about the situation of children. Discussions were currently under way about the possibility of establishing an ombudsman for children, which would consolidate the work of the various independent institutions in that area.

14. The President had appointed a commission to address the problem of witchcraft violence, particularly against children and older persons. Her Government was implementing the recommendations made by that commission and had created a technical team to establish minimum penalties for the use of children's body parts in witchcraft. Such acts constituted a criminal offence, and a number of related prosecutions had been carried out.

15. Her Government had adopted a policy on environmental health and safety that took into account the health challenges faced by children as a result of their environment. Many mining towns had introduced rehabilitation programmes that would have a positive impact on the health of children. A task team was currently investigating illegal mining and the employment of children in mines.

16. **Mr. Cardona Llorens** said that he would welcome further information on specific measures taken to address the environmental impact of toxic and chemical waste and on the budget allocated for that purpose. More information on the policies in place to combat discrimination and to address inequities between urban and rural areas and between city centres and outlying shanty towns would also be welcome. The delegation should also comment on the high number of deaths from preventable diseases and on the State party's failure to meet some of the Millennium Development Goals.

17. **Ms. Bogopane-Zulu** (South Africa) said that her delegation would provide further information in writing on the budget allocated to deal with environmental problems within the mining sector. A programme was under way to deal with acid mine drainage and would improve access to safe water for the population. The Department of Health had launched two programmes that would help reduce the number of preventable deaths. The first was a revamped primary health-care system that focused on preventive rather than curative health care, and the second was Operation Phakisa, which provided for the establishment of child-friendly ideal clinics.

18. One reason why the maternal mortality target under the Millennium Development Goals had not been reached was because teenage girls were more likely to die giving birth, since their bodies were not yet fully developed. Her Government was therefore working to reduce the high rate of teenage pregnancy, and her delegation would provide relevant statistical data in writing. It would be useful if the Committee could share information about data collection methods and tools, so that South Africa could improve its performance in that area.

19. With regard to the lapses in foster care orders, the courts had granted extensions so as to ensure that no children would be denied access to the foster care grant. The Department of Social Development had established a ministerial committee on foster care, and Parliament had just recently passed an amendment to the Children's Act of 2005 that would greatly simplify foster-care placement.

20. **Ms. Nxumalo** (South Africa) said that her Government acknowledged the need to review the current foster care system. It was expected that the proposed introduction of an extended child support grant would alleviate the backlogs in the system. The aforementioned ministerial committee on foster care would analyse the systemic challenges, and the system would be amended on the basis of that analysis.

21. Evidence-based parenting programmes were in place to empower parents and other caregivers and help them deal with the challenges they faced. There was also a special support programme for teenage mothers, to help them raise their children while also attending school and living out their own childhood.

22. **Ms. Khazova** (Country Task Force) asked whether the amount of the extended child support grant would be equal to the amount of the foster care grant and whether it would solve the problem of removing kinship care from the foster care system.

23. **Ms. Nxumalo** (South Africa) said that the amount of the grant was still being finalized.

24. **Mr. Dangor** (South Africa) said that the amount of the extended child support grant would be significantly higher than the current child support grant but might not be as high as the foster care grant, given the available fiscal envelope.

25. **Ms. Aho Assouma** asked what happened to children orphaned by AIDS.

26. **Ms. Sandberg** asked whether South Africa had a sufficient number of well-trained social workers to assist foster families and prevent violence against children.

27. **Ms. Bogopane-Zulu** (South Africa) said that, in order to avoid labelling and stigmatization, the State did not differentiate between orphans with respect to how they had lost their parents. Programmes for orphans focused on enabling them to remain in their communities and, if possible, in their own homes. There had not been an increase in the construction or registration of orphanages, and her Government was moving towards deinstitutionalization.

28. Persons employed in the child protection system were required to meet certain minimum qualifications, including persons in charge of orphanages or childcare centres. Some orphanages were allowed to operate under conditional registration because the Government wanted to be able to monitor them and see if the conditions in the orphanages improved.

29. **Ms. Nxumalo** (South Africa) said that standards had been set for child and youth care centres, but it was necessary to strengthen the monitoring system to ensure compliance. The safety of children was the priority and could not be compromised. If a particular child and youth care centre was found to present a danger to children, it would be closed down.

30. South Africa had a shortage of social workers. It was estimated that the country required a total of 55,000 social work professionals. By the end of the current financial year, the Government would have conducted an analysis to determine which categories of social work professionals were required and in what numbers. Over 19,000 social workers were currently registered, but they were not all practising. However, child and youth care workers and social auxiliary workers could perform some social work functions, which would relieve the burden on social workers. There was a scholarship programme to train

social workers at university. The challenge was simultaneously to train a sufficient number of social workers and to ensure that those already trained were deployed effectively.

31. **Ms. Ayoubi Idrissi** said that she wished to know what measures had been taken to ensure that foster care placements complied with child protection standards, particularly given the shortage of social workers.

32. **Ms. Nxumalo** (South Africa) said that social auxiliary workers supervised foster placements. The ratio of social workers to social auxiliary workers was approximately one to four. In much the same way, probation officers were supported by teams of assistant probation officers. Child and youth care workers visited children in their homes. In some cases, judges required an official social work report to demonstrate compliance with the conditions of a court order.

33. **Ms. Bogopane-Zulu** (South Africa) said that a ministerial committee had been set up to review the White Paper for Social Welfare. It had completed its work and presented a report to Cabinet. The new white paper would enable South Africa to provide adequate welfare support to all citizens, including children, and would mobilize the necessary human and financial resources.

34. **Ms. Aho Assouma** said that she wished to know whether child orphans living with HIV were placed in foster care. Did foster families accept such children?

35. **Ms. Bogopane-Zulu** (South Africa) said that children living with HIV received the necessary medical treatment. Like adults, children were not required to disclose their HIV status, but it was sometimes necessary for it to be disclosed, for example, if so ordered by a court. The issue of disclosure remained a challenge from a human rights perspective. The Department of Social Development and the Department of Health organized family support programmes and interactive programmes. With the assistance of many NGOs, programmes had been organized to enable children living with HIV to understand their condition.

36. Following parliamentary intervention and amendments to the Children's Act, social workers were now able to take on adoption cases, which would make it possible to clear the backlog of such cases. The Government had not banned intercultural adoption and did not remove children from the custody of foster parents who were of a different culture. It was nevertheless important for a child to experience his or her culture, and adoptive parents were expected to facilitate such experiences.

37. **Ms. Aho Assouma** asked whether it would not be difficult for a child living with HIV to continue receiving medical treatment in foster care if the family had not been made aware of his or her HIV status.

38. **Ms. Bogopane-Zulu** (South Africa) said that, if a child in foster care needed ongoing medical treatment, the foster family would be informed of his or her needs. The family would therefore be made aware of the HIV status of a child placed in their care. In general, however, owing to the threat of stigma and bullying, a child's HIV status was treated as confidential information.

39. **Ms. Nxumalo** (South Africa) said that the screening procedure had been a frequent cause of delays in the adoption process. Pursuant to the Children's Act, prospective adoptive parents were screened to confirm that they were not listed on the National Child Protection Register. Courts would not hear cases involving prospective adoptive parents who had not been screened. Additional resources had been allocated to the screening unit, and the backlog of cases had since been cleared. Government social workers could now provide adoption services free of charge. The entire adoption system would soon be reviewed.

40. **Ms. Khazova** said that she would be grateful for clarification regarding the role of the courts in the adoption process. Was it correct that the courts were not involved? If so, was that a temporary measure?

41. **Ms. Nxumalo** (South Africa) said that adoption placements could not be finalized without the intervention of the courts. The screening procedure had been the cause of the delays.

42. **Ms. Bogopane-Zulu** (South Africa) said that, previously, it had been necessary to pay for adoption services, since they had not been provided by government social workers. However, it was now possible for social workers to provide such services free of charge. With regard to child maintenance, it should be noted that, since the adoption of the Maintenance Amendment Act of 2015, a good deal of progress had been made. Maintenance officers had been appointed to ensure that maintenance obligations were honoured. Although some problems had been encountered in locating the whereabouts of parents, efforts were being made to address them.

43. **Ms. Kambula** (South Africa) said that measures had been taken to improve the maintenance system. In 2011, a maintenance turnaround strategy had been implemented. Maintenance payments were now made directly by electronic funds transfer, which had removed the need for beneficiaries to make unnecessary journeys. Maintenance officers had been trained to mediate in disputes, and the mediation process often resulted in a maintenance order.

44. Owing to an increase in the number of defaults on maintenance payments, a maintenance enforcement strategy had been introduced to strengthen the civil remedies available to beneficiaries seeking to recover late payments. Existing legislation made it possible to prosecute defaulters, but other solutions were preferable. Pursuant to the Maintenance Amendment Act, an electronic communications service provider could be issued with a direction to locate the whereabouts of a maintenance defaulter, and defaulters could be barred from obtaining credit. The Act also provided for interim maintenance orders.

45. **Ms. Majokweni** (South Africa) said that the provision of maintenance services had become more specialized. The Director of Public Prosecution was now able to appoint specialist maintenance prosecutors. Over the previous year, nearly 31,000 maintenance cases had been dealt with. The Government had been successful in ensuring that children continued to receive maintenance payments even if their parents had stopped working. Investigations of the financial status of those from whom maintenance had been claimed could also be conducted. Considerable progress had been made in ensuring that maintenance obligations were honoured without the threat of imprisonment.

46. **Ms. Bogopane-Zulu** (South Africa) said that the possibility of ratifying the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance was currently under consideration. A committee had been set up to audit the country's international obligations, which would make it possible for a decision to be made with regard to the ratification of that and other international instruments in the context of the country's wider human rights obligations.

47. **Ms. Mxakato-Diseko** (South Africa) said that, with regard to the proportion of the budget allocated to environmental impact, waste management and so forth, it should be remembered that such activities were for the common good. An improvement in air quality was of benefit to everyone. At the national level, the sum allocated to the sector had increased year on year. Further allocations would be made at the provincial level, and additional funding was available for inspections. Furthermore, South Africa was a party to various international instruments in that sphere.

48. It must be remembered that, before 1994, a child's quality of life in South Africa had depended on his or her race and gender. There had been specific budgets for children of particular races. The legacy of that system remained, which made the current challenges even greater. However, the democratic Government was committed to ensuring that children were treated equally.

49. **Ms. Bogopane-Zulu** (South Africa) said that the provision of education for children with physical disabilities was very good. Some problems remained in terms of the accessibility of school infrastructure, but a dedicated programme had been organized to make improvements and ensure that the principles of universal design were incorporated into new building projects. Previously, teachers of children with disabilities had been required to obtain a specialized diploma. However, to improve access to education, that requirement had been relaxed, which had allowed more black teachers to work in specialized schools for children with disabilities. They were given a minimum of five years in which to acquire the necessary specialized knowledge and receive government-sponsored bursaries.

50. Previously, access to education for children with sensory disabilities, including deaf and deaf-blind children, had represented a challenge. Nevertheless, even children without disabilities could now opt to learn sign language at school. A sign language curriculum had been finalized and specialized training programmes for teachers of blind persons were being developed. Children with disabilities did not follow a specialized curriculum. They sat the same matriculation exams as students without disabilities, although some minor modifications were made. For the first time, children with visual impairments were now able to write their exams in Braille.

51. There were some 450 special schools for children with intellectual disabilities, which were divided into two categories. In one category of school, children followed a modified version of the mainstream curriculum or an individual programme of study. In the other category of school, there was a greater focus on providing children with skills development training, as opposed to an academic education.

52. Centres for children with severe or multiple disabilities were regulated by the Department of Social Development. Under the South African Schools Act, a child could only be placed in one of those centres if the head of the Department of Education exempted them from participating in mainstream education and provided compelling reasons for doing so. A strict assessment procedure ensured that no child who was able to attend a mainstream school was placed in one of those centres.

53. The Department of Social Development also funded a programme to empower and support parents of children with disabilities. Through that programme, parents of children with disabilities were encouraged to allow their children to attend a school that was appropriate to their needs. The publication of the White Paper on the Rights of Persons with Disabilities in March 2016 had paved the way for the adoption of a series of targeted measures aimed at improving the situation of children with disabilities in South Africa. The Department of Social Development submitted to Cabinet an annual report detailing the impact of the programmes and interventions that it had carried out to that end.

54. In an effort to remedy the lack of disaggregated data on children, the Statistician-General had launched a household survey, which, once completed, would provide the Government with a clearer picture of how many children with disabilities were living in South Africa.

55. **Ms. Aho Assouma** said that it would be helpful to receive additional information on the disability prevention programmes in place in South Africa. She asked whether orthopaedic equipment was readily available to children with physical impairments; whether the cost of such equipment was subsidized by the State; whether children obliged

to use such equipment received the necessary support; and whether community-based care programmes for persons with disabilities catered to the specific needs of children with disabilities.

56. **Mr. Cardona Llorens** said that the statistical data provided on the proportion of children with disabilities currently in inclusive education appeared unreliable and prevented the Committee from discerning a clear trend in that regard. The delegation should explain how the State party intended to overcome the challenges associated with providing high-quality, inclusive education for all children and adequate training to teachers who worked in an inclusive education environment. He asked what steps the State party was taking to integrate children with intellectual disabilities who still attended special schools into the mainstream education system.

The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.

57. **Ms. Bogopane-Zulu** (South Africa) said that the delegation would submit a written response to the questions posed on statistical data within 48 hours.

58. The Government had carried out two programmes intended to prevent disabilities resulting from road accidents: the first by educating motorists about responsible driving; and the second by raising public awareness of the requirement for all children under 3 years of age to be placed in a child seat. A programme to educate women and adolescent girls about the dangers of consuming alcohol during pregnancy had also been carried out with the aim of reducing the number of children born with foetal alcohol syndrome.

59. The Government had given priority to guaranteeing access to education and was now working on improving the quality of that education. Bursaries were available to teachers wishing to undertake training on working with children with disabilities and special needs. A baseline report on inclusive education had been prepared shortly after the publication of the Education White Paper 6 on Special Needs Education: Building an Inclusive Education and Training System. More information on the baseline report could be found in the initial report submitted by South Africa under the Convention on the Rights of Persons with Disabilities (CRPD/C/ZAF/1). Overall, there were more children with disabilities attending mainstream schools than special schools. It was hoped that building more full-service schools would help to reduce the waiting list for children in need of special education.

60. The Department of Health distributed prosthetic devices, glasses, hearing aids, technology-based learning tools and other assistive devices to eligible children free of charge. There were 11 official languages in South Africa, all of which enjoyed equal status. Children could learn in their mother tongue at the primary level but not at the secondary or tertiary level.

61. There were no obstacles to registering the births of children born in prison. In the case of a child born to a foreign mother who was not in possession of an identity document, the child's birth was registered without a South African birth certificate being issued. A number of steps had been taken with a view to improving the situation of children born in prison and to reducing the stigma associated with the circumstances of their birth. Whereas previously children born in prison tended to remain with their mother until the age of 5, they could now be removed from prison and returned to their family or placed in a foster home from the age of 2. It was, however, a requirement for children below that age to be placed in the same cell as their mother.

62. **Ms. Khazova** asked whether the languages spoken by the Khoisan people were among the 11 official languages of South Africa.

63. **Mr. Madi** asked whether, in the interests of preventing statelessness, South African citizenship could be granted to a child born to foreign parents who, for whatever reason, were unable to transmit the citizenship of their country of origin to their child.

64. **Ms. Bogopane-Zulu** (South Africa) said that, although the languages spoken by the Khoisan people, as well as sign language, were not recognized as official languages, the Constitution required the Government to promote and create the conditions for their development and use. The Government attached particular importance to those languages, as they were the often first languages of Khoisan and deaf children.

65. The Immigration Act had been amended to facilitate the registration of foreign children born in South Africa and to provide them with the possibility of acquiring South African citizenship through naturalization upon reaching the age of 18. Once their birth had been registered, foreign children were provided with a document confirming that they had been born in South Africa, which would enable them to claim South African citizenship when the time came. Foreign children born in South Africa usually held the citizenship of their parents until they reached 18 years of age.

66. The Government drew a clear distinction between children who were in contact and children who had come into conflict with the law and housed them separately.

67. **Ms. Sandberg** asked whether South African citizenship could be granted to foreign children whose parents had been unable to transmit the citizenship of their country of origin to them and who would otherwise be stateless until they reached 18 years of age.

68. **Ms. Bogopane-Zulu** (South Africa) said that such cases were dealt with on an individual basis. Various assessments had to be conducted and a number of procedures for determining the identity and country of origin of unaccompanied or undocumented minors had to be exhausted before a child was declared stateless. Children who had been declared stateless were granted South African citizenship and enjoyed the same benefits as other South African children, refugee children and asylum-seeking children who had followed the necessary procedure.

69. **Ms. Majokweni** (South Africa) said that the National Prosecuting Authority of South Africa had devised a number of mechanisms for dealing with children who were in contact with the law, who could be divided into two categories, namely offenders and victims. The Child Justice Act provided for a mechanism for diverting child offenders away from the adult criminal justice system, which, to date, had proven effective.

70. As part of its strategy to assist and rehabilitate child offenders, the Government had opened four centres to provide those children with specialized support. Furthermore, the Government, relying on the constitutional principle establishing the primacy of the best interests of the child, had taken a number of steps to enhance the protection afforded to child victims involved in court proceedings by the Criminal Procedure Act. Child victims involved in court proceedings had no contact with the court itself, as they testified in a separate room by means of a closed circuit television link and communicated with the court through an intermediary, who was trained in the use of child-friendly language. In-camera proceedings could also be used to protect the privacy and identity of a child while they testified. Court preparation officers were appointed by the National Prosecuting Authority to assist children in giving their testimony. Furthermore, victim support officers attached to centres dealing with children who had suffered sexual abuse were trained on how to prevent the revictimization of those children and, in police stations, social workers were on hand to assist children in giving a statement.

71. **Ms. Ayoubi Idrissi** said that it was her understanding that, under the current arrangements, a child who was a victim of violence, including sexual violence, was required to give a statement to the police and to then give his or her testimony to the court,

which amounted to revictimization. She asked whether the State party had considered adopting the practice of recording a child's initial statement and transmitting it to the court to prevent the child from having to relive their traumatic experience for a second time.

72. **Mr. Cardona Llorens** asked whether child victims involved in court proceedings benefited from the same protective measures in all parts of the country and how many child offenders were still being dealt with under the adult criminal justice system.

73. **Mr. Nelson** said that the Committee had received information to the effect that, in South Africa, a large number of children were being held in pretrial detention for excessively long periods of time in violation of article 37 of the Convention, which provided that children should be detained only as a measure of last resort. Moreover, those children were effectively being denied their constitutional right to be presumed innocent until proven guilty. He asked why so many children had been placed in pretrial detention and whether alternatives to pretrial detention had been sought.

74. While he had initially welcomed the opening of specialized children's courts, he had been disappointed to learn that those courts were in fact magistrates' courts that had been given the jurisdiction to try cases involving children in addition to other cases, which, to his mind, was a poor substitute for specialized courts dealing exclusively with cases involving children. He asked whether the State party envisaged opening such specialized courts in the future, as doing so could help reduce the large number of children being held in pretrial detention.

75. **Ms. Majokweni** (South Africa) said that whenever a child offender appeared before a court, that court became a children's court. Each of the aforementioned child offender support centres had a specialized court that dealt exclusively with cases involving children. In fact, those centres were child offenders' point of entry into and exit from the juvenile justice system, which precluded them from being tried by another court. However, child offenders who had committed a serious offence or had helped an adult to commit a serious offence were dealt with under the adult criminal justice system, as adults could not be dealt with under the juvenile justice system. In principle, children who had committed a serious offence were not normally diverted into the juvenile justice system. Services for child victims of sexual violence were available nationwide, and centres had been set up in rural areas that had previously been underserviced.

76. **Ms. Bogopane-Zulu** (South Africa) said that, in addition to magistrates' courts, sexual offences courts dealt with cases relating to children. Moreover, courts were being established in some rural towns in order to facilitate access to justice. Police services had special units that handled complaints filed by and statements taken from children. Furthermore, statements could be recorded so that children would not be required to testify in court.

77. **Ms. Kambula** (South Africa), referring to concerns about the high number of children in pretrial detention, said that 67 per cent of children awaiting trial had been released to the care of their parents in 2015-2016. The Child Justice Act promoted the release of children awaiting trial, but some parents were reluctant to look after their children, particularly when the child had allegedly committed an offence against another family member or was seen as a threat.

78. With regard to sexual violence at schools, she said that the Department of Basic Education was a member of the Intersectoral Committee for the Management of Sexual Offence Matters and had launched a number of initiatives, including the Stop Rape campaign, which sought to raise awareness about children's rights. The Department had also developed a handbook on how to prevent sexual violence in schools, which included safety measures and tips on how children could protect themselves. Moreover, a guide for teachers had been developed, which explained which procedures to follow when a pupil

was raped or when a teacher suspected a case of child abuse. Under the Domestic Violence Act, teachers were able to apply for protection orders on behalf of their pupils.

79. **Ms. Aho Assouma**, after expressing concern about pupils who had been raped by their teachers and how such sexual violence was reported, asked whether counselling was available to victims of sexual violence and whether they were awarded compensation or damages by the courts.

80. **Ms. Kambula** (South Africa) said that schools had police officers who were able to investigate cases of sexual violence and that some schools offered counselling services.

81. **Ms. Majokweni** (South Africa) said that compensation for victims, such as the payment of damages, was very limited and that such compensation might be expanded in the future in the light of the Service Charter for Victims of Crime and the Minimum Standards for Victims of Crime, 2004.

82. **Mr. Dangor** (South Africa), said that a National Drug Master Plan had been established to tackle the problem of drug use and drug trafficking among children. The authorities were trying to reduce the demand for and supply of drugs and were aware that the drug trade led to the proliferation of gangs and violence. Local drug action committees were working with young people to steer them away from violence and to treat children affected by drug use.

Initial report of South Africa on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ZAF/1 and CRC/C/OPSC/ZAF/Q/1)

83. **Mr. Kotrane** (Country Rapporteur) said that the Committee welcomed the submission of the Initial report of South Africa under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ZAF/1), but regretted that it had not yet received any written replies to the list of issues (CRC/C/OPSC/ZAF/Q/1). He asked what initiatives the State party had taken to ensure the consultation of NGOs when preparing its initial report.

84. The Committee noted with satisfaction the State party's ratification of several key international agreements, as well as the adoption of various legislative measures relating to the implementation of the Optional Protocol. However, it was concerned, inter alia, by the lack of reliable data on the situation of the different groups of children and offences covered by the Optional Protocol. He therefore asked what steps the State party had taken to develop and implement a comprehensive, coordinated and effective system of data collection in the areas covered by the Optional Protocol; to disaggregate such data by, inter alia, sex, age, nationality and ethnic origin, region and socioeconomic status; and to ensure that such data included the number of prosecutions and convictions relating to the offences under the instrument. He also asked what measures had been adopted to include all the issues covered by the Optional Protocol in the National Plan of Action for Children in South Africa 2012-2017 so that all the provisions of the Optional Protocol were systematically implemented in the relevant areas and to guarantee that children, communities and civil society organizations were able to actively participate in the formulation of policies and programmes.

85. He wished to know whether a central coordinating body, such as the National Children's Rights Intersectoral Coordination Committee, had been given a clear mandate and sufficient authority to coordinate all the activities relating to the implementation of the Convention and the Optional Protocol at the intersectoral, national, regional and local levels and to provide that body with the necessary human, technical and financial resources. He also wished to know how the State party ensured that all the acts and activities defined in articles 2 and 3 of the Optional Protocol were fully taken into account in its criminal

legislation and that jurisdiction was established over all the offences where the alleged offender or the victim was a South African national or resident. He would welcome more information on extradition issues, in particular whether under South African legislation the Optional Protocol was considered the legal basis for extradition with regard to the offences covered by the instrument.

86. Lastly, he asked what mechanisms and guarantees were in place or envisaged to protect the rights of children who were victims of offences under the Optional Protocol, to ensure that they were treated as victims and not criminals by judicial authorities and law enforcement officials and would not be subject to prosecution.

87. **Ms. Khazova** (Country Rapporteur) asked whether the State party planned to collect data on the offences covered by the Optional Protocol or to investigate the root causes of those offences with a view to effectively assessing and addressing related problems. Noting that South Africa was a major hub for child sex tourism in Africa, she enquired whether any measures were in place to prevent child sex exploitation in tourist centres, hotels and spas or to regularly monitor those areas and facilities. Did the State party provide training on the Optional Protocol for all persons involved in the protection of children or was such training offered on a case-by-case basis? Did the State party raise awareness of the Optional Protocol in schools or provide mandatory courses on Internet safety?

88. She would appreciate more information regarding the National Child Protection Register and the National Register for Sex Offenders. Did the names of child sex offenders appear on both registers? At what point, if any, would a child offender be removed from the National Sex Offenders Register?

89. The State party must ensure full birth registration, given that children who were not registered were particularly vulnerable to the offences covered by the Optional Protocol. Moreover, it was unclear whether the sale of children was criminalized under South African legislation. If a mother sold her child in exchange for money but the child was not adopted and simply vanished, would it be considered the sale of a child? Would the mother be punished?

90. She expressed concern about the traditional practice of *ukuthwala* (abduction and forced marriage of girls) and asked whether it was explicitly protected under the Constitution. She enquired whether exchanging a daughter for lobola (bride price) was permitted under national legislation or whether it was considered the sale of a child and was a crime. She also expressed concern that under the Sexual Offences Act children involved in prostitution were considered offenders when they were, in fact, victims.

91. While South African legislation provided a detailed definition of child pornography, it did not establish how to properly dispose of pornographic materials so that they were not discovered by children. Moreover, the legislation did not differentiate between adult and child offenders. Since child pornography was reportedly widespread in South Africa it was a cause of great concern. Were children who were forced to take naked pictures of themselves considered guilty of an offence? Was there any mechanism to ensure that children who took naked pictures of themselves and shared those pictures with other children were exempt from prosecution or placed in special programmes?

The meeting rose at 6 p.m.